



SENATE BILL 636: Donor Privacy.

2021-2022 General Assembly

Committee:		Date:	February 8, 2022
Introduced by:	Sens. Sanderson, Steinburg, Krawiec	Prepared by:	Erika Churchill
Analysis of:	Ratified		Staff Attorney

OVERVIEW: *Senate Bill 636 would protect the identity of persons giving money or tangible goods to nonprofits for furthering that nonprofit's charitable purpose. As ratified on August 26, 2021, the bill would have become effective October 1, 2021. The Governor vetoed the bill on September 3, 2021.*

CURRENT LAW: With respect to nonprofits, membership lists are not to be obtained or used for any purpose unrelated to a member's interest as a member without the consent of the board of directors. G.S. 55A-16-05. Any nonprofit organized under Chapter 55A of the General Statutes that receives more than \$5,000 of public funding in a fiscal year from the federal government, the State, or a political subdivision of this State, must provide its latest annual financial statements when demanded by a member of the public. Any nonprofit organized under that same Chapter that receives public funding is also required to provide, upon request, its IRS Form 990 or Form 990-EZ. The IRS Form 990 or Form 990-EZ is an annual form required to be filed with the IRS by most organizations exempt from income tax under section 501(a), and certain political organizations and nonexempt charitable trusts. The form requires reporting on the organization's exempt status and on other activities, finances, governance, compliance with certain federal tax filings and requirements, and compensation paid to certain persons, including certain contributor information. The entirety of the completed and filed Form 990, except for certain contributor information, is required to be made available to the public by the IRS. The Form 990 or Form 990-EZ is also required by State law to be disclosed as follows:

- To the Commissioner of Insurance by a charitable organization issuing charitable annuities.
- To the Department of Health and Human Services by a hospital or ambulatory surgical facility.
- To the Secretary of State by a charity applying for licensure to solicit funds in this State as required by Chapter 131F of the General Statutes.

With respect to records made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions, those documents are a public record and available for inspection by any member of the public. G.S. 132-1, G.S. 132-6. There are some exceptions to this general standard, such as criminal investigations (G.S. 132-1.4), trade secrets (G.S. 132-1.2), electronically captured signatures and other personal identifying information (G.S. 132-1.2), tax information (G.S. 105-259), lists of individuals receiving public assistance (G.S. 108A-80), patient medical information (G.S. 130A-12) and others.

BILL ANALYSIS: The bill would do all of the following:

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- Provide that the identity of a person donating money or tangible goods may not be disclosed if the donor notified the nonprofit in writing before or at the time of the donation not to disclose his or her identity, except as required by State or federal law.
- Provide that under the public records law, the identity of a person donating money or tangible goods to a nonprofit is confidential, except as authorized by the person donating the money or tangible goods, or as specifically required by State or federal law.
- Specify that the confidential treatment of donors to nonprofits does not apply to required campaign finance disclosures, including electioneering communications.
- Provide that in the instances where State law requires a nonprofit to submit a copy of its IRS Form 990 or Form 990-EZ, that submitted form is a confidential document under the public records law.
- Add to the ethical standards of conduct for public servants and legislators a prohibition on disclosing confidential nonprofit donor information gained in the course of the public position.
- Add to the criminal offense of misuse of confidential information a provision that it is a Class 1 misdemeanor for an officer or employee of the State or its political subdivisions to disclose confidential nonprofit donor information gained in the course of the official capacity.

EFFECTIVE DATE: As ratified on August 26, 2021, the bill would have become effective October 1, 2021. The Governor vetoed the bill on September 3, 2021.